THE BOMBAY COTTON CONTROL ACT, 1942.

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MO-1 Bk H 957—48a

*BOMBAY ACT No. XXX OF 1942.[1]

[THE BOMBAY COTTON CONTROL ACT, 1942.]

[*2nd March 1943.*]

Amended by Bom. 63 of 1947.

An Act to provide for regulation and prohibition of the cultivation of any variety of cotton, of the mixing of the prohibited variety of cotton with other cotton and of the possession or use of, or trade in, the prohibited variety of cotton in any part of the Province of Bombay.

WHEREAS it is expedient in the best interests of the growers of cotton in certain areas in the Province of Bombay, the cotton trade and the economic prosperity of the said Province to maintain the quality and reputation of the cotton grow in those areas, and for that purpose in such areas, to fix the variety of cotton to be grown, to prohibit the cultivation of any variety of cotton, to prohibit the mixing of the prohibited variety of cotton with any other cotton and to prohibit or restrict the possession or use of, or trade in, the prohibited variety of cotton;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5. Ch, 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Cotton Control Act, 1942.

(*2*) It extens to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "controlled area" means an area specified in a notification under section 3;

(*b*) "cotton" includes cotton plant, ginned and unginned cotton, cotton waste and cotton seed;

(*c*) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture;

(*d*) "prohibited variety of cotton" for any area means the variety of cotton the cultivation of which is prohibited in such area under sub-clause (*ii*) of clause (*a*) of sub-section (*2*) of section 3;

(*e*) "standard cotton" for any area means the variety of cotton the cultivation of which is permitted in such area under sub-clause (*i*) of clause (*a*) of sub-section (*2*) of section 3.

Power to fix in any area variety of cotton which may be cultivated etc.

3. (*1*) (*a*) The Provincial Government may, by notification in the Official Gazette, in respect of any local area specified in the notification, declare its intention of—

(*i*) fixing the variety of cotton the cultivation of which shall be permitted in such area,

(*ii*) prohibiting the cultivation of any other variety of cotton in such area.

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[1] For the Statement, *see Bombay Government Gazette*, 1943, Part IV, pp. 72 and 73.

* This Act was re-enacted by Bom. 63 of 1947, s. 2.

[1][(*iii*) prohibiting in such area the mixing of any standard cotton with any other standard cotton or of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and

(*iv*) prohibiting or restricting in such area the possession or use of, or trade in, any standard cotton mixed with any other standard cotton or the variety of cotton specified in sub-clause (*ii*), whether or not mixed with any standard cotton.]

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

(*c*) Every such notification shall state that any objection or suggestion which may be received by the Provincial Government within the period specified in the notification, which shall be not less than three months from the date of the notification, shall be considered by the Provincial Government.

(*2*) (*a*) After the expiry of the period specified in the notification issued under sub-section (*1*) and after considering such objections and suggestions as may be received by it within such period, the Provincial Government may, by notification in the Official Gazette, in respect of the local area specified in the notification issued under sub-section (*1*) or any part thereof—

(*i*) fix the variety of cotton the cultivation of which is permitted in such area,

(*ii*) prohibit the cultivation of any other variety of cotton in such area,

[1][(*iii*) prohibit in such area the mixing of any standard cotton with any other standard cotton or of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and

(*iv*) prohibit or restrict in such area the possession or use of, or trade in, any standard cotton mixed with any other standard cotton or the variety of cotton specified in sub-clause (*ii*), whether or not mixed with any standard cotton.]

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

Permission to factories to mix standard cotton with any other standard cotton or any prohibited variety of cotton with standard cotton.

[2][**3A.** (*1*) Notwithstanding anything contained in section 3 or any notification issued thereunder, the Provincial Government may, by notification in the *Official Gazette*, permit any standard cotton to be mixed with any other standard cotton or any prohibited variety of cotton to be mixed with any standard cotton in any factory in which cotton is manufactured into yarn or cloth:

Provided that the mixed cotton—

(*a*) is not made into fully pressed bales, and

(*b*) is used in such factory exclusively in the manufacture of yarn or cloth.

(*2*) The owner or person in charge of the factory shall maintain or cause to be maintained a register containing a daily record of cotton other than standard cotton received into and used in the factory. He shall preserve such register for a period of not less than two years from the date of the last entry made therein.

(*3*) The owner or person in charge of the factory shall produce the register maintained under sub-section (*2*) when required to do so by the Director of Agriculture (Extension and Rural Development) or any person appointed by him in this behalf.]

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[1] These clauses were substituted for the original by Bom. 68 of 1947, s. 3.

[2] This section was inserted, *ibid.*, s. 4.

Penalty.

4. [1](*1*) Any person, who in any controlled area, knowingly and in contravention of the provisions of this Act or of any notification issued or rule made thereunder—

(*a*) cultivates any prohibited variety of cotton shall, on conviction, be punishable with fine which may extend to twenty rupees for the first offence and to fifty rupees for every subsequent offence,

[2][*b*(*i*) mixes or causes to be mixed any standard cotton with any other standard cotton or any prohibited variety of cotton with the standard cotton, or

(*ii*) possesses, uses or trades in, any standard cotton mixed with any other standard cotton or any prohibited variety of cotton, whether mixed with the standard cotton or not,]

shall, on conviction, be punishable with fine which may extend to five hundred rupees for every subsequent rupees for the first offence and to one thousand offence.

[3][(*2*) Any owner or person in charge of a factory who—

(*a*) in contravention of the provisions of sub-section (*1*) of section 3A makes the mixed cotton into fully pressed bales or uses the mixed cotton otherwise than in the manufacture of yarn or cloth in his factory, or

(*b*) fails to comply with any of the provisions of sub-section (*2*) or sub-section (*3*) of section 3A,

shall, on conviction, be punishable with fine which may extend to five hundred rupees for the first offence and to one thousand rupees for every subsequent offence.]

Confiscation.

5. Whenever an offence under this Act has been committed, all cotton in respect of which an offence has been committed and every box, receptacle, package or covering in which such cotton is contained shall be liable to confiscation.

Procedure in confiscation.

6. (*1*) When in any case tried by a criminal court, the court decides that anything is liable to confiscation under section 5, it may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation.

(*2*) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the officer authorised by the Provincial Government in this behalf may hold an inquiry and may order confiscation :

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing liable to confiscation or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

Compounding.

7. (*1*) The officer authorised under sub-section (*2*) of section 6 may accept from any person who is reasonably suspected of having committed an offence under section 4, a sum of money as may be prescribed by rules made under section 14 by way of composition for such offence.

(*2*) On payment of such sum, such person, if in custody, shall be set at liberty and if proceedings in any criminal court have been instituted against such person in respect of such offence, the composition shall be deemed to amount to an acquittal and no further proceedings shall be taken against such person in respect of such offence.

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[1] This section was renumbered as section 4 (*1*) by Bom. 63 of 1947, s. 5.

[2] These sub-clauses were substituted for the original, *ibid.*

[3] This sub-section was added, *ibid.*

(*3*) Notwithstanding anything contained in sub-section (*2*), it shall be lawful for the Court or the officer authorised under sub-section (*2*) of section 6 to order confiscation of anything liable to confiscation under section 5.

Power of entry and seizure.

8. (*1*) Any officer authorised in this behalf by the Provincial Government may between the hours of 6 a.m. and 6 p.m.—

(*a*) enter upon any land in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton has been or is being cultivated in contravention of a notification under section 3, uproot or cause to be uprooted such cotton and seize the cotton so uprooted ; or

(*b*) enter upon or into any land, building, ship, vessel, vehicle or place in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton, whether mixed with the standard cotton or not, is kept in contravention of a notification under section 3, and seize such cotton.

(*2*) Every officer seizing any cotton under this section shall forthwith—

(*a*) make a report of such seizure to the nearest Magistrate of the First or Second Class having jurisdiction to try the offence committed in respect of such cotton specifying in such report the particulars of such cotton and furnish a copy of such particulars to the occupier, or person in charge of the land, building, ship, vessel, vehicle or place on or in which such seizure was made, and

(*b*) subject to rules made under section 14, forward such cotton to the nearest officer authorised by the Provincial Government for examination and for report to the Director of Agriculture.

(*3*) The opinion of the officer authorised under sub-section (*2*) regarding such cotton recorded in any document signed by such officer shall be evidence as to the nature of such cotton in any inquiry, trial or proceeding under this Act.

Duty of owner, occupier and person in charge to give facilities for inspection by authorised officer.

9. (*1*) Every owner, occupier, or person, in charge, of any land, building, ship, vessel, vehicle or place shall give all reasonable facilities to the officer, authorised under sub-section (*1*) of section 8, to inspect such land, building, ship, vessel, vehicle or place.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with fine which may extend to twenty rupees.

Previous sanction and limitation on prosecution.

10. No prosecution under this Act shall be instituted without the previous sanction of the Director of Agriculture.

Cognizance of offences.

11. No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try any offence under this Act.

Protection for acts done under this Act.

12. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Officer acting under the Act to be public servant.

13. Every officer acting or purporting to act in pursuance of the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Rules.

14. (*1*) The Provincial Government may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules for all or any of the following purposes, namely :—

(*a*) to prescribe the sum of money to be paid by way of composition under section 7 ;

(*b*) to prescribe the conditions subject to which cotton seized may be forwarded under section 8.

(*3*) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

Repeal.

Bom. XXXV of 1935.

15. The Bombay Cotton Control Act, 1935, is hereby repealed :

Provided that any notification issued under section 3 of the Bombay Cotton Control Act, 1935, shall be deemed to be issued under sub-section (*2*) of section 3 of this Act unless and until superseded by any notification issued under the said sub-section :

Provided further that any proceeding in respect of any offence under the Bombay Cotton Control Act, 1935, pending at the date of the coming into force of this Act shall be continued and disposed of as if this Act had not been passed.